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CHAPTER 15

STATEWIDE WATER QUALITY MANAGEMENT PLANNING

SUBCHAPTER 3. PLAN ASSESSMENT, AMENDMENT AND ADOPTION

7:15-3.1 Water quality management plan consistency requirements

(a) All projects and activities affecting water quality shall be developed and conducted in a manner that does not conflict with this chapter or adopted WQM plans. The Commissioner shall not undertake, nor shall he or she authorize through the issuance of a permit, any project or activity that conflicts with applicable sections of an adopted WQM plan or with this chapter. For purposes of N.J.A.C. 7:15-3.1 and 3.2, "permit" includes permits, approvals, certifications, and similar actions. The Department shall conduct the consistency determination review or other consistency review for a Department permit concurrently with the Department's review of the permit application. The Department shall not issue the permit if the Department finds the project or activity to be inconsistent with a WQM plan or this chapter.

(b) The Department shall not grant permits for the following projects and activities before a formal consistency determination review under N.J.A.C. 7:15- 3.2 has been completed:

1. New surface water or ground water discharges, or existing surface or ground water discharges proposing significant modifications, that require individual NJPDES discharge permits under N.J.A.C. 7:14A and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.;
2. Treatment works that require treatment works approvals under N.J.A.C. 7:14A-12 and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.;
3. Actions regulated by the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq.;
4. Actions that require Type "B" wetland permits under N.J.A.C. 7:7-2.2;
5. Construction of the following new solid waste facilities, other than hazardous waste facilities and minor expansions of solid waste facilities, regulated by N.J.A.C. 7:26:
 - i. New sanitary landfills other than vertical expansions;
 - ii. New solid waste composting or co- composting facilities over one acre, but excluding leaf composting facilities;
 - iii. New resource recovery facilities and new solid waste materials recovery facilities;and

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- iv. New solid waste incinerators and thermal destruction facilities;
- 6. Sanitary landfill closures where leachate collection and control is required under N.J.A.C. 7:26;
- 7. Construction of new hazardous waste facilities regulated by N.J.A.C. 7:26;
- 8. Waterfront development activities regulated under N.J.S.A. 12:5-3, for residential developments of 25 units or greater, and for industrial, commercial, and mixed use (including residential) developments having wastewater flows of 20,000 gallons per day or more; extensions or modifications to existing projects when the cumulative total for the project is greater than 24 units, or greater than or equal to 20,000 gallons per day;
- 9. Construction of 50 or more realty improvements regulated under the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq.; and
- 10. Adoption or amendment of environmental health ordinances to control water pollution under the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq.;

(c) The following projects and activities do not require a formal consistency determination review under N.J.A.C. 7:15-3.2, but shall still not conflict with WQM plans:

- 1. Approved and non-approved water supply connections regulated by the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.;
- 2. Construction or repair of dams regulated by N.J.S.A. 58:4-2 et seq.;
- 3. Well drilling regulated by N.J.S.A. 58:4A-14 et seq.;
- 4. Actions regulated by the Air Pollution Control Act (1954), N.J.S.A. 26:2C-9.2;
- 5. Renewals or modifications of existing permitted activities that do not propose significant modifications, as determined by the Department;
- 6. Actions that require Type "A" wetland permits under N.J.A.C. 7:7-2.2;
- 7. Stream encroachments regulated under the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.;
- 8. Waterfront development activities regulated under N.J.S.A. 12:5-3, other than those identified in (b)8 above;
- 9. Water lowering regulated under N.J.S.A. 23:5- 29 or N.J.S.A. 58:4-9;

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10. Construction or operation of water systems regulated by the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.;

11. Diversion of surface or ground waters regulated by the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.;

12. Activities that require freshwater wetlands permits, open water fill permits, or transition area waivers under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq.;

13. Discharges that require water quality certifications under N.J.S.A. 58:10A-5.b and Section 401 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq.;

14. Actions regulated by N.J.A.C. 7:26 other than actions identified in (b)5 and 6 above and actions pertaining to hazardous waste, including:

i. Collection and haulage of solid waste;

ii. Operation of solid waste facilities;

iii. Permit renewals for solid waste facilities not proposing major expansions;

iv. Vertical expansions of sanitary landfills;

v. Construction of new solid waste transfer stations;

vi. Construction of new solid waste composting and co-composting facilities under one acre;

vii. Construction of new leaf composting facilities;

viii. Sanitary landfill closure where leachate collection and control is not required; and

ix. Disruption of sanitary landfills, where such disruption does not require construction of new sanitary landfills or treatment and disposal of leachate;

15. Hazardous waste activities regulated by N.J.A.C. 7:26 but not identified in (b)7 above, including collection and haulage of hazardous waste, operation of hazardous waste facilities, and permit renewals for hazardous waste facilities not proposing major modifications; and

16. Any other activity regulated by the Department but not identified in (b) above or deemed to be consistent under N.J.A.C. 7:15-4.2.

(d) At the request of any person who intends to apply for a Department permit, the Department shall informally discuss with such person the consistency of such person's

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proposed project or activity with WQM plans and this chapter. Information provided by the Department in such discussions is for guidance only, and is not binding on the Department.

(e) Except as expressly provided in this chapter or in an areawide WQM plan, the only components of the Statewide WQM Plan that shall be used in performing consistency determination reviews and other consistency reviews are the following:

1. This chapter, exclusive of those portions of the Statewide WQM Plan incorporated by reference, but not codified in this chapter; and
2. Statewide Sludge Management Plans, District Sludge Management Plans, and sludge management rules that are promulgated or approved by the Department pursuant to N.J.S.A. 13:1E-1 et seq.

(f) Interested parties may comment on the consistency of Department permits with WQM plans and this chapter through the appropriate draft or final permit public review and comment process. Such comments shall be taken into consideration prior to the issuance of a final permit.

(g) At the request of any applicant whose proposed project or activity has been found by the Department to be inconsistent with a WQM plan or this chapter, the Department may informally discuss with that applicant the possible actions which that applicant might take to attempt to resolve the conflict. Such actions may include revising the project or activity to conform with the WQM plan and this chapter, seeking an amendment to the WQM plan under N.J.A.C. 7:15-3.4, or appealing the Department's finding under N.J.A.C. 7:15- 3.9(g). The applicant may take such actions without regard to the existence or absence of a discussion or a request for a discussion under this subsection. Information provided by the Department in such discussions is for guidance only, and is not binding on the Department or the designated planning agencies. If the project or activity is in a designated area, the Department shall invite the designated planning agency to participate in the discussion.

7:15-3.2 Procedures for consistency determination reviews

(a) Requests for consistency determination review shall, where applicable, include but not be limited to the following information:

1. A narrative description of the project, including county and municipality, lot and block, type of development or activity, number of dwelling units, anticipated population, anticipated wastewater flow, availability and identification of existing treatment works, proposals for new treatment works (include proposed owner and operator of treatment works, and location of discharge);
2. A United States Geological Survey quadrangle map showing the approximate boundaries of the project site and discharge location; and

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3. Drawings and/or plans which illustrate the description under (a)1 above.

(b) Based upon potential negative water quality impacts of the project, the Department may require the narrative description under (a)1 above to also include potential water quality impacts and a site-specific pollution control plan. In most cases, the Department intends that requirements for such inclusion shall be established through amendments to areawide WQM plans. Any areawide WQM plan that establishes such requirements shall specify the categories of projects that are subject to the requirements, the pollutants or sources of pollution that shall be addressed, and the geographic region in which the requirements apply, if that region is less than the entire designated area or non-designated area.

(c) The Department shall perform consistency determination reviews in accordance with the following procedures:

1. Upon receipt of a complete request for consistency determination review and a complete permit application, the Department shall review the appropriate WQM plan and this chapter to determine whether the project or activity is consistent with the written provisions of the plan and this chapter. This review shall include, but not be limited to, the following plan components where applicable:

- i. Population forecasts;
- ii. Wastewater flow projections;
- iii. Availability of DTW;
- iv. Identification of appropriate DTW;
- v. Identification of appropriate wastewater service area;
- vi. Identification of appropriate project management agency;
- vii. Use of Best Management Practices for pollution control;
- viii. Identification of areas suitable or unsuitable for development with consideration of environmentally sensitive areas; and
- ix. Other water quality based policies, goals, objectives, or recommendations.

2. The Department shall complete this review within 90 days of receipt of a complete request for consistency determination review and a complete permit application. This time period may be extended for a one time only 30 day period by the mutual consent of the applicant and the Department.

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3. Upon completion of the review, the Department shall, except as provided in (c)4 below, issue a consistency determination. This determination shall state that the project or activity is either consistent with, inconsistent with, or not addressed by, the WQM plan and this chapter.

i. A project or activity shall be determined to be consistent if it is in accordance with the written provisions of the WQM plan and this chapter.

ii. If the WQM plans and this chapter do not contain provisions precluding a project or activity, then this shall be interpreted to mean that the project or activity is not addressed. A finding of "not addressed" is equivalent in effect to a finding of consistent.

iii. A finding of inconsistent means that the project or activity is in conflict with the written provisions of a WQM plan or this chapter.

4. If the Department finds that a project or activity is consistent or not addressed, then the Department may issue a statement of this finding to the applicant or may issue the permit without issuing a written consistency determination.

5. Except as provided in (c)6 below, all Department findings made for Department permits under (c)4 above shall be valid only for the permit application for which the consistency determination review was sought.

6. If a project or activity requires two or more Department permits, and if the Department makes a finding under (c)4 above for one of those permits, that finding shall be valid for the remaining Department permits unless:

i. The project or activity has become inconsistent, because of an amendment made to the WQM plan or this chapter after the initial finding; or

ii. The Department denies a permit in response to comments received under N.J.A.C. 7:15-3.1(f).

7. If the Department finds a project or activity to be inconsistent, then the Department shall notify the applicant in writing of the reasons for this finding. The applicant may request an informal discussion of the conflict under N.J.A.C. 7:15-3.1(g).

7:15-3.3 (Reserved)

7:15-3.4 Water quality management plan amendment procedures

(a) The Department and the designated planning agencies shall propose amendments to the Statewide and areawide WQM Plans whenever such amendments are necessary or desirable. Amendments may be proposed for various reasons, such as to implement or comply with applicable State or Federal law; respond to new circumstances; improve the

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economic, social, or environmental impact of WQM plans; or resolve issues disclosed through the consistency review procedure.

(b) Procedures for amendment of the Statewide WQM Plan are as follows:

1. Water quality related provisions in present and future rules adopted by the Department shall be considered to be part of the Statewide WQM Plan. Such provisions may not be adopted, amended, or repealed through the WQM plan amendment process under (b)6 below.

2. Priority systems, intended use plans and project priority lists for wastewater facilities that are developed by the Department and accepted by the United States Environmental Protection Agency (USEPA) pursuant to USEPA regulations, or that otherwise are developed by the Department under N.J.A.C. 7:22, shall be considered to be part of the Statewide WQM Plan. Such priority systems and project priority lists shall be adopted or revised in accordance with USEPA regulations and N.J.A.C. 7:22, as appropriate, and shall not be adopted or revised through the WQM plan amendment process under (b)6 below.

3. Statewide Sludge Management Plans, District Sludge Management Plans and sludge management rules that are promulgated or approved by the Department pursuant to N.J.S.A. 13:1E-1 et seq. shall be considered to be part of the Statewide WQM Plan. Such plans and rules shall be promulgated, revised, updated or approved in accordance with N.J.S.A. 13:1E-1 et seq., and shall not be promulgated, revised, updated, or approved through the WQM plan amendment process under (b)6 below.

4. Lists of water quality limited segments, lists of segments where TMDLs will be developed, and project priority lists for TMDL development which are developed by the Department under N.J.A.C. 7:15-6 shall be adopted as amendments to the Statewide WQM Plan. TMDLs developed in accordance with N.J.A.C. 7:15-7 shall be adopted as amendments to the relevant Areawide WQM Plan(s). However, such lists, and TMDLs shall be adopted or revised in accordance with N.J.A.C. 7:15-6 or N.J.A.C. 7:15-7, as appropriate, and shall not be adopted or revised through the WQM plan amendment process under (b)6 below. The Department may also publish a draft amendment as an Interested Party Review document or as a pre-proposal prior to formal proposal of the amendment.

5. A regional stormwater management plan prepared in accordance with N.J.A.C. 7:8-3 shall be submitted only by a lead planning agency as a proposed amendment to the applicable areawide WQM plan. In addition, the following changes to an adopted regional stormwater management plan shall be processed as amendments to applicable areawide WQM Plans under this section:

i. The addition, deletion or modification to any of the drainage area-specific water quality, groundwater recharge or water quantity objectives identified under N.J.A.C. 7:8-3.5;

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- ii. The addition, deletion or modification to any drainage area-specific design or performance standard developed under N.J.A.C. 7:8-3.6;
- iii. Any modification to a regional stormwater management plan that the Department or designated planning agency determines is likely to have a significant environmental, social, or economic impact; or
- iv Any modification that the applicant requests be processed as an amendment.

6. Components of the Statewide WQM Plan other than (b)1 through 5 above may be amended by using the procedure specified in (g) below, except that the Commissioner shall render the final decision identified in (g)9 below.

(c) Areawide WQM plans for designated areas may be amended by designated planning agencies pursuant to their approved plan amendment procedures. The Department may amend the areawide WQM plan for any non designated area, pursuant to the procedures under (g) below. Amendments or provisions thereof for any areawide WQM plan whose specific purpose or effect is to address projects or activities covered by (i) and (j) below, or that are either proposed, constructed, operated or conducted by the State or Federal government, or that are regulated by the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), shall be processed only by the Department, regardless of whether the areawide WQM plan is for a designated area or a non-designated area. By the mutual consent of the Department and the designated planning agency, the Department may also process all other amendments to an areawide WQM plan for a designated area.

(d) Plan amendment procedures developed by the designated planning agencies shall be consistent with this section and approved by the Department. Such procedures shall include, but need not be limited to, provisions that:

1. Allow any interested person to submit to the designated planning agency written, documented petitions to amend the areawide WQM plan;
2. Provide for review by the Department of all proposed amendments prior to public notice;
3. Allow the Department to identify governmental entities, sewerage agencies, and BRC-regulated sewer or water utilities that shall be requested to issue written statements of consent for proposed amendments, such parties being in addition to any governmental entities, sewerage agencies, and BRC-regulated sewer or water utilities identified by the designated planning agency;
4. Provide for publication of public notice of proposed amendments in the New Jersey Register and in a newspaper of general circulation in the designated area; and

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5. Provide for adequate public comment periods and opportunities for public hearings before the designated planning agency decides whether to approve an amendment.

(e) Every designated planning agency shall, by December 31, 1989, submit for Department approval plan amendment procedures that have been revised for consistency with this section. Such procedures shall identify the newspaper in which public notices of plan amendments shall be published. All plan amendment procedures that the Department approved before October 2, 1989, but that are not revised and approved by the Department as being consistent with this section, shall become void on March 31, 1990. If a plan amendment procedure becomes void in this manner, the Department shall immediately provide to the designated planning agency a plan amendment procedure that is consistent with this section, and that shall be used by the designated planning agency until a plan amendment procedure is submitted by the designated planning agency and approved by the Department under this subsection.

(f) Within 15 days of approving an amendment, a designated planning agency shall submit to the ORP a copy of the amendment, together with background information for that amendment. WQM plan amendments approved by designated planning agencies are valid only upon the subsequent adoption of such amendments by the Governor or his designee.

(g) Except as provided in (h) below, the Department procedure for amendment of areawide WQM plans is as follows:

1. For amendments which are the Department's responsibility under (c) above, any interested person may petition the Department to amend the areawide WQM plan, or the Department may propose to amend the areawide WQM plan on the Department's own initiative. Requests for amendments shall be submitted in writing to the Office of Regulatory Policy, Department of Environmental Protection, PO Box 029, Trenton, New Jersey 08625-0029.

2. Requests for amendments shall include, but need not be limited to, a detailed description of the proposed amendment, including documentation substantiating the need for the amendment and other documentation as determined by the Department. Within 90 days of receiving such requests, the Department shall review such requests and shall either:

- i. Disapprove the amendment request, and return it to the applicant; or
- ii. Return the amendment request to the applicant for additional information or other necessary changes. If the applicant then submits a revised amendment request, the Department shall, within 90 days of receiving the revised amendment request, review such request and render a decision under (g)2i above, this subparagraph, or (g)2iii below; or
- iii. Decide to proceed further with the amendment request.

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3. The Department shall notify the applicant and the applicable designated planning agency, if any, in writing of its decision under (g)2 above. If the Department's decision is to proceed further with the amendment request under (g)2iii above, then this notification shall include the public notice that shall be given for the proposed amendment. If the proposed amendment is a regional stormwater management plan, the Department shall also notify the Department of Community Affairs and the Department of Agriculture. The applicant shall request written statements of consent under (g)4 below, and shall give public notice by publication in a newspaper of general circulation at the applicant's expense. The Department shall maintain a list identifying the newspaper that shall be used for this purpose in each planning area. The public notice shall also be published in the New Jersey Register. In cases where such Department decisions include a requirement for a non-adversarial public hearing, the public notice shall provide at least 30 days notice of the hearing.

4. Requirements concerning written statements of consent for plan amendments are as follows:

- i. As part of each notification of a decision under (g)2iii above, the Department may identify a list of governmental entities, sewerage agencies, and BRC-regulated sewer and water utilities that may be affected by, or otherwise have a substantial interest in, approval of the proposed amendment, and that shall be asked to issue written statements of consent for the proposed amendment. Within 15 days of receiving such notification, the applicant shall submit by certified mail (return receipt requested) a copy of the proposed amendment to these parties, with a request that they issue written statements of consent for the proposed amendment within 60 days of their receipt of the request.
- ii. A written statement of consent shall include a statement that the party concurs with, or does not object to, the proposed amendment. Tentative, preliminary, or conditional statements shall not be considered to be statements of consent. A statement of consent by a governmental unit shall be in the form of a resolution by that unit's governing body. If the party objects in writing to the proposed amendment, the party shall state all reasons for objection in writing.
- iii. The applicant shall promptly forward to the ORP a copy of all written statements of consent and other written comments received, and a copy of all requests for consent (with return receipts) sent to parties that did not provide written statements of consent or other written comments within 60 days of their receipt of such requests.
- iv. Where a party identified under (g)4i above denies a request for a written statement of consent or does not issue a written statement of consent, the reasons therefor, if known on the basis of reasonably reliable information, shall be considered in making decisions under (g)8 and 9 below.

5. When the Department proposes to amend the areawide plan on its own initiative, the Department shall give public notice by publication in a newspaper of general circulation

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in the planning area, shall send copies of the public notice to the applicable designated planning agency, if any, and may hold a public hearing or request written statements of consent as if the Department were an applicant under (g)3 and 4 above. The public notice shall also be published in the New Jersey Register.

6. Interested persons, including, but not limited to, those from whom written statements of consent are requested under (g)4i or 5 above, may submit written comments to the ORP within 30 days of the date of the public notice. Interested persons may request that the public comment period be extended up to 30 additional days, and such extensions may be granted to the extent they appear necessary. Requests for such extensions shall be submitted in writing to the ORP within 30 days of the date of the public notice.

7. Interested persons may also request that the Department hold a non-adversarial public hearing; such requests shall be submitted in writing to the ORP within 30 days of the date of the public notice. If there is significant interest, as determined by the Department, in holding a public hearing, then a public hearing will be held. A public notice providing at least 30 days notice of the hearing will be published in the New Jersey Register and in two newspapers of general circulation, and will be mailed to the applicable designated planning agency, if any, and to each party who was requested to issue a written statement of consent for the amendment. The public comment period will be extended until 15 days after the hearing. Except when the Department proposes to amend areawide WQM plans on its own initiative, the applicant shall, at the applicant's expense, mail the public notice, provide for publication of the public notice in two newspapers, secure a court stenographer, and provide three copies of a verbatim transcript of the hearing to the ORP.

8. If any data, information or arguments submitted during the public comment period or in response to a request for written statement of consent appear to raise substantial new questions concerning a proposed plan amendment, the Department may:

- i. Reopen or extend the public comment period for no more than 30 additional days to give interested persons an opportunity to comment on the information or arguments submitted;
- ii. Disapprove the proposed amendment and, where applicable, return it to the applicant;
- iii. Return the amendment request to the applicant for necessary, substantial changes. If the applicant then submits a revised amendment request, the Department shall review such request in the same manner as a revised amendment request submitted under (g)2ii above; or
- iv. Prepare a new proposed plan amendment, appropriately modified, for proposal under this section.

9. Except where the Department has already disapproved or returned the proposed amendment under (g)8 above, the Governor or his designee shall render a final decision on the amendment. The Governor or his designee shall either:

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- i. Adopt the amendment as proposed;
- ii. Adopt the proposed amendment with minor changes that do not effectively destroy the value of the public notice; or
- iii. Disapprove the proposed amendment and, where applicable, return it to the applicant.

10. The Department shall provide written notification of the decision of the Governor or his designee to the applicant where applicable. Notice of the final decision shall also be published in the New Jersey Register.

11. The Department shall retain the administrative record for WQM Plan amendments for the following periods of time:

- i. For each amendment adopted under (g)9 above, a period of not less than three years from the effective date of the amendment.
- ii. For each proposed amendment disapproved or returned under (g)2, 8, or 9 above, a period of not less than one year from the date of disapproval or return.

(h) For amendments identified in (h)3 below, the Department shall modify the plan amendment procedure specified in (g) above in the manner set forth in (h)1 and 2 below. Except as provided in (h)1 and 2 below, the entire procedure specified in (g) above remains applicable to such amendments.

1. In lieu of the consent requirements in (g)3 and 4 above, the Department shall identify a list of potentially affected or interested parties that shall receive notice of the proposed amendment, but that need not be asked to consent to the proposed amendment. Such parties shall include the applicable designated planning agency, if any. Within five days of receiving such a list, the applicant shall submit by certified mail (return receipt requested) to these parties a copy of the proposed amendment and a copy of the public notice that will be published pursuant to (g)3 above. The applicant shall promptly forward to the ORP a copy of all letters (with return receipts) sent to these parties under this paragraph. For sewers and pumping stations identified in (h)3ii below, written statements of consent are still required from owners or operators of affected DTW.

2. Instead of the 30 day period specified for these actions in (g)6 and 7 above, interested persons may take the following actions within 10 working days of the date of the public notice:

- i. Submit written comments on the proposed amendment to the ORP;
- ii. Submit written requests to the ORP that the Department extend the public comment period up to 30 additional days; or

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iii. Submit written requests to the ORP that the Department hold a non-adversarial public hearing.

3. The modifications set forth in (h)1 and 2 above shall be used only for amendments whose sole purpose is to address the following projects:

i. Schools, health care facilities, or correctional facilities, if such schools or facilities are publicly owned or operated; or

ii. New sewers or pumping stations to serve a project or activity that is partially within a future sewer service area depicted in an areawide WQM plan, if such sewers or pumping stations would convey wastewater from such project or activity to the existing DTW whose sewer service area is depicted in that WQM plan, and if a resolution of consent is received from the owner or operator of that DTW. If a project or activity is partially or entirely within two or more depicted sewer service areas, the new sewers or pumping stations may convey wastewater to one or more such existing DTW, provided that resolutions of consent are received from the owners or operators of the affected DTW in each of the sewer service areas. This subparagraph shall apply only to wastewater service area modifications of less than 10 acres.

iii. Notwithstanding (h)3ii above, the modifications set forth in (h)1 and 2 above shall not be used for sewers or pumping stations whose construction would violate N.J.A.C. 7:14A-12.21, or that would convey wastewater to DTW whose capacity must by statute, rule or other legal requirement be reserved for other projects or activities. The Department may require the applicant to provide proof from the owner or operator of DTW that would receive the conveyed flow that capacity is available for the applicant's project or activity. This paragraph applies whether treatment works approvals are sought for both construction and operation, or for construction only, of sewers or pumping stations.

(i) Effluent limitations, including, but not limited to, water quality based effluent limitations, and schedules of compliance established in accordance with N.J.A.C. 7:15-3.1 as NJPDES permit conditions under N.J.A.C. 7:14A-8.6 shall be considered to be part of the areawide WQM plans. NJPDES permit conditions shall be modified only through the procedures specified in the Department's New Jersey Pollutant Discharge Elimination System rules (N.J.A.C. 7:14A), in accordance with applicable Department rules, and shall not be modified through the WQM plan amendment process under (c) or (g) above. This subsection, however, shall not preclude the adoption of effluent limitations or schedules of compliance in areawide WQM plans under (g) above, prior to the establishment of such effluent limitations or compliance schedules as new or revised NJPDES permit conditions.

(j) (Reserved)

(k) Water quality management planning related documentation in present and future 201 Facilities Plans that are approved by the Department and USEPA after May 31, 1975

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shall constitute amendments to areawide WQM plans. This documentation may include, but is not limited to: selected facilities alternative, future design capacity and flows, treatment levels, sewer service areas, septage management areas, sludge and septage management and disposal plans, environmental constraints mapping, identification of management agencies, and grant conditions. Itemized abstracts of the appropriate documentation shall be available at the Division of Water Resources. Water quality management planning related documentation in 201 Facilities Plans completed on or prior to May 31, 1975 may be adopted into areawide WQM plans on a case-by-case basis under (c) or (g) above.

(l) In preparing amendments to areawide WQM plans, the following policies shall be adhered to:

1. Existing regional DTW shall be used where such use is cost-effective, environmentally sound, and feasible from an engineering standpoint. Expansion or upgrading of existing regional DTW is generally preferable to construction of additional DTW that would produce additional direct discharges to surface water at new locations.
2. Where a sewer connection ban is in effect under N.J.A.C. 7:14A-12.21 on a DTW, the sewer service area for that DTW shall not be altered unless such alteration would, even in the absence of the sewer connection ban, be cost-effective, environmentally sound, and feasible from the engineering standpoint.

7:15-3.5 Water quality management plan review, revision, and certification

(a) The Department and the designated planning agencies shall periodically review Statewide and areawide WQM Plans in order to propose appropriate amendments under N.J.A.C. 7:15-3.4, and to prepare appropriate revisions under this section.

(b) The Department and the designated planning agencies shall prepare revisions to Statewide and areawide WQM Plans under this section whenever such revisions are necessary to:

1. Correct, clarify, or update erroneous, unclear, or outdated statements in Statewide and areawide WQM Plans regarding:
 - i. Development and wastewater treatment facilities existing at the time of the most recently adopted areawide WQM plan or amendment affecting the site; or
 - ii. Proposed projects, provided that all other Department approvals were received, in full compliance with applicable regulations, at the time of the most recently adopted areawide WQM plan or amendment affecting the site;
2. Transfer or assign wastewater management plan responsibility under N.J.A.C. 7:15-5.13;

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3. Revise schedules for submission of wastewater management plans under N.J.A.C. 7:15-5.23(g);
4. Provide for the following substantive changes in Statewide and areawide WQM plans where the Department determines no significant individual or cumulative impacts will occur to environmentally sensitive areas or other natural resources (such as water supplies) due to the proposed revision (individually or in combination with past revisions in the area), that the changes are consistent with N.J.A.C. 7:15-3.6 and 3.7, and that certain directly affected municipal and county agencies and other interests as identified by the Department have been provided an opportunity to review and comment on the proposed revision:
 - i. Any increase in flow (including both increased loadings and no increased loadings) from industrial treatment works where no change in service area or discharge type (for example, discharge to surface water or ground water) is proposed and the discharge is not to a waterbody segment for which a TMDL has been proposed or adopted under N.J.A.C. 7:15-7. The Department may process such revisions prior to or simultaneously with a NJPDES permit for the same change in flow;
 - ii. The transfer of sewer service area from one domestic treatment works to another, provided that the approved sewer service areas in the areawide WQM plan are currently contiguous in the area to be transferred, neither domestic treatment works is subject to a sewer connection ban, the proposed revision includes only areas currently designated for sewer service, both the sending and receiving wastewater management planning agencies concur with the proposed revision, and no new or expanded treatment works other than sewer line extensions is proposed as part of the revision;
 - iii. Any increase of 20,000 gpd or less in planned wastewater flow to an on-site NJPDES-permitted discharge to ground water for a school or public institution, using the same general type of treatment works (for example, direct discharge to ground water, spray irrigation);
 - iv. Any change in the estimated wastewater flow (see N.J.A.C. 7:15-5.16(b)8) or design capacity (see N.J.A.C. 7:15-5.16(b)9) to a NJPDES-permitted discharge to ground water from less than 20,000 gpd to more than 20,000 gpd, provided (b)4v below is satisfied and the same general type of treatment works is proposed;
 - v. Expansion of a future sewer service area to contiguous lots, where the expansion involves less than 100 acres, contributes less than 8,000 gallons per day of additional wastewater flow, and does not create a significantly new pattern of sewered development such that a significant potential or incentive is created for additional revisions or amendments to open new areas to sewered development; or
5. Provide for any modification in an adopted regional stormwater management plan that does not require an amendment under N.J.A.C. 7:15-3.4(b)5.

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(c) The documents that are automatically adopted into the Statewide or areawide WQM Plans under N.J.A.C. 7:15-3.4(b)1 through 4, and 7:15-3.4(i) shall not be revised under this section.

(d) The procedure for revision of Statewide and areawide WQM plans is as follows:

1. The Governor or his designee shall adopt revisions to areawide WQM plans and the Commissioner shall adopt revisions to the Statewide WQM Plan. Such revisions shall take effect immediately, unless the adoption notice specifies otherwise.

2. The Department shall, on an annual basis, make publicly available a list of adopted revisions to WQM plans. Under N.J.A.C. 7:15-3.4, interested persons may submit petitions to amend WQM plans to repeal or modify such revisions.

(e) Designated planning agencies shall revise areawide WQM Plans in accordance with procedures established by such agencies and approved by the Department. All revisions to areawide WQM plans are valid only upon their adoption by the Governor or his designee.

(f) The Governor or his designee shall certify adopted WQM Plans in accordance with United States Environmental Protection Agency regulations.

7:15-3.6 Coordination with Coastal Zone and Hackensack Meadowlands programs

(a) In accordance with N.J.A.C. 7:7E-1.2(h), the Department's Rules on Coastal Zone Management, including, but not limited to, provisions concerning the Hackensack Meadowlands Development Commission at N.J.A.C. 7:7E-1.5(a) and 7:7E-3.45, shall provide the basic policy direction for WQM planning in the New Jersey Coastal Zone defined at N.J.A.C. 7:7E-1.2(b), including, but not limited to, the Hackensack Meadowlands District described in N.J.S.A. 13:17-4.

(b) In accordance with N.J.A.C. 7:15-3.4(b)1, the water quality related provisions of N.J.A.C. 7:7E, including but not limited to N.J.A.C. 7:7E-8.4, are part of the Statewide WQM Plan.

(c) Under N.J.A.C. 7:7E-8.4 and Section 307(f) of the Coastal Zone Management Act, 33 U.S.C. §§ 1451 et seq., the Department's Coastal Management Program incorporates by reference all requirements established by or pursuant to the Clean Water Act, 33 U.S.C. §§ 1251 et seq., including all requirements contained in this chapter and in WQM plans.

(d) For WQM plan amendments relating to the Hackensack Meadowlands District, the consultation requirement in N.J.S.A. 13:17-9(c) shall be met as follows:

1. For amendments processed under N.J.A.C. 7:15- 3.4(b)4 or (c), the Hackensack Meadowlands Development Commission shall be requested to issue written statements of

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consent for such amendments under N.J.A.C. 7:15-3.4(g)3 and 4 or N.J.A.C. 7:15-3.4(d)3, as appropriate.

2. For other amendments to WQM plans under N.J.A.C. 7:15-3.4(b)1 through (b)3, (i), (j), or (k) that automatically incorporate Department or USEPA actions taken through rulemaking proceedings or water pollution control programs, the consultation requirement in N.J.S.A. 13:17-9(c) shall be addressed, as necessary, through those rulemaking proceedings or programs, and shall not be independently addressed under this section.

7:15-3.7 Coordination with Pinelands program

(a) In accordance with N.J.S.A. 13:18A-8, 16 U.S.C. § 471i(f), and the "Water Resources Planning" element (page 221) of the "Surface and Groundwater Resources Program" contained in Chapter Seven of the Comprehensive Management Plan adopted by the Pinelands Commission on November 21, 1980, comments shall be sought from the Pinelands Commission on proposed WQM plan amendments pertaining to the Pinelands Area defined at N.J.S.A. 13:18A-11 or the Pinelands National Reserve defined at 16 U.S.C. § 471i(c), to ensure that such amendments are consistent with the intent and programs of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and section 502 of the National Parks and Recreation Act of 1978, 16 U.S.C. § 471i.

(b) For WQM plan amendments processed under N.J.A.C. 7:15-3.4(b)4 or (c), the Department shall seek comments from the Pinelands Commission before making the decision required by N.J.A.C. 7:15-3.4(g)2 or 7:15- 3.4(d)2, as appropriate.

(c) For other amendments to WQM plans under N.J.A.C. 7:15-3.4(b)1 through (b)3, (i), (j), or (k) that automatically incorporate Department or USEPA actions taken through rulemaking proceedings or water pollution control programs, any need to seek comments from the Pinelands Commission shall be addressed, as necessary, through those rulemaking proceedings or programs, and shall not be independently addressed under this section.

7:15-3.8 Validity of water quality management plan amendments

(a) No WQM plan amendment hereafter adopted by the Governor or his designee is valid unless adopted in substantial compliance with this chapter. A proceeding to contest any WQM plan amendment on the ground of noncompliance with the procedural requirements of this chapter shall be commenced within one year from the adoption date of the amendment.

(b) A proceeding to contest any WQM plan amendment adopted by the Governor or his designee prior to October 2, 1989, on the ground of noncompliance with the procedural requirements of this chapter as it existed prior to October 2, 1989, shall be commenced by October 2, 1990.

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7:15-3.9 Appeals of Department decisions

(a) Within 20 calendar days from receipt by the applicant of a written notification from the Department of the decision of the Department made pursuant to N.J.A.C. 7:15-3.4(g)2i or ii or 8ii through iv, the applicant may request an adjudicatory hearing to contest the Department decision by submitting a written request to the Department, addressed to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625-0402. The request shall include the following information:

1. The name, address, and telephone number of the applicant and its authorized representative if any;
2. The applicant's factual position on each question alleged to be at issue, its relevance to the Department's decision, specific reference to contested factors as well as suggested revised or alternative provisions;
3. Information supporting the applicant's factual position and copies of other written documents relied upon to support the request for a hearing;
4. An estimate of the time required for the hearing (in days and/or hours); and
5. A request, if necessary, for a barrier-free hearing location for disabled persons.

(b) A hearing request not received within 20 days after receipt by the applicant of a written notification from the Department of the decision of the Department, shall be denied.

(c) During the pendency of the review and hearing on a Department decision made pursuant to this chapter, the challenged Department decision shall remain in full force and effect, unless a stay is granted by the Department upon formal request by the applicant.

(d) If the appellant fails to include all the information required by (a) above, the Department may deny the hearing request.

(e) If it grants the request for a hearing, the Department shall file the request for a hearing with the Office of Administrative Law. The hearing shall be held before an administrative law judge and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. If the subject of the hearing is a proposed amendment to the areawide WQM plan for a designated area, the Department shall provide notice of the hearing to the designated planning agency for that area.

(f) Appeals of decisions made by designated planning agencies under this subchapter shall be made to a court of competent jurisdiction.

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(g) An appeal of a decision made by the Department pursuant to N.J.A.C. 7:15-3.1 or 3.2 shall be made in accordance with the statutes and rules that govern the permit that is the subject of the decision. Such an appeal shall not be governed by (a) through (e) above.

(h) If the subject of a Department decision identified under (a) above is a proposed amendment to the areawide WQM plan for a designated area, the designated planning agency for that area may request an adjudicatory hearing to contest the Department decision, regardless of whether or not the applicant requests such a hearing. Such requests shall be governed by (a) through (e) above, and the designated planning agency shall be treated in the same manner as an "applicant" for purposes of those subsections.